

Consumer affairs

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Watching out for loan and credit traps: new credit law 1 April

A new credit law, which comes into effect 1 April 2005, will help provide better protection for consumers.

The Credit Contracts and Consumer Finance Act (CCCFA) regulates the provision of consumer credit, including home loans, personal loans, hire purchase, credit cards, long-term leases and housing buy-back schemes. It replaces the Credit Contracts Act 1981 and the Hire Purchase Act 1971.

Key features of the new Act are: improved redress for consumers; strengthened enforcement of the law; better information for consumers; and, greater transparency on interest charges, fees and early repayment.

The Ministry is charged by Government with providing information to both consumers and business about the new law. It is doing this through a targeted public awareness campaign for consumers, and by providing information to credit providers and retailers.

Better protection for consumers

The CCCFA provides greater protection for consumers from unfair practices by replacing the existing legislation. This has become outdated and fits awkwardly with many new credit products and industry practices.

New disclosure requirements introduced under the law mean that the information



relating to the credit contract that credit providers and retailers provide must be understandable and accurate. This will give consumers the opportunity to make informed decisions about the affordability of a credit contract or lease. It will also make it easier for consumers to compare the true costs of different credit products.

Credit providers and retailers will not be able to charge consumers unreasonable fees and penalties, and will be prevented from using unfair methods of calculating interest or early repayment charges.

The law provides greater incentives for creditors to comply with the law and treat consumers fairly. There are stronger penalties for credit providers and retailers who breach the law. The Commerce Commission, which will enforce the law, has been given the power to take action in response to breaches of the law. And consumers will be still be able to seek their own remedies through use of the Disputes Tribunal.

Home buy-back schemes are also a focus of the new law. Tough penalties and new disclosure requirements, which came into effect on October 2003, will create a disincentive for operators to continue running such schemes.

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Research focuses awareness campaign

Research undertaken by the Ministry of Consumer Affairs shows people aged under 40 years, households with children, and Māori and Pacific peoples are more likely to have difficulty in understanding financial matters than other groups.

The research has been used to inform the development of a targeted public awareness campaign about changes to credit law with the introduction of the Credit Contracts and Consumer Finance Act (CCCFA) on 1 April 2005.

A telephone survey of 700 people was conducted in August and September last year.

Key findings

The research found that more than half (53%) of all respondents had borrowed in the past 12 months. Of these, 28% reported they had borrowed for essential items such as paying for household groceries or to pay the power bill.

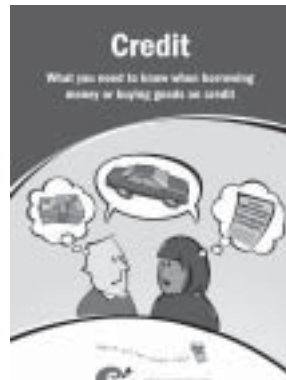
The respondents who had borrowed during the last 12 months used a range of lending institutions, with retailers

(29%), banks (26%), finance companies (17%), credit cards (9%) and family/friends (9%) being the most common.

Of the people who had borrowed, 29% said they were challenged in understanding the documentation accompanying credit agreements. In particular, they were unsure if credit agreements stated the cash price of the goods or information on what to do to cancel the contract.

Just under a quarter (24%) did not know whether there is a limit on the rate of interest charged when borrowing money or buying goods on credit, and 21% did not know whether they have the right to cancel a loan.

The margin of error for the total sample in the research was $\pm 4.2\%$.



New Credit pamphlet for consumers

Awareness campaign

The awareness campaign, running in April and July, will highlight aspects of the new law relevant to consumers. It will also direct consumers to where they can get more information and help with understanding the changes.

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Benefits for credit providers and retailers

The new law will also make life simpler for credit providers and retailers, being easier to follow and apply than the existing legislation. Its disclosure regime, including model disclosure forms, will simplify administration requirements.

Business to business transactions are no longer covered by the legislation, except in relation to the re-opening provisions for oppressiveness. This reduces compliance costs and increases flexibility for commercial lenders.

Keeping consumers informed

The Ministry is undertaking a range of activities to keep consumers informed on the new law and its implications.

A targeted public awareness campaign, to introduce the changes to credit law, is planned for April to July. To inform the development of the campaign, the Ministry conducted quantitative and qualitative research (see story above for more details).

The campaign will focus on advertising in community newspapers, on selected radio stations and using buses in Auckland, Wellington and Christchurch.

A new pamphlet, *Credit – What you need to know when borrowing money or buying goods on credit*, has been produced for consumers. Written in plain English, it covers consumer rights before and after signing a contract, the information lenders must disclose, what contracts must include, the responsibility of the consumer when entering a

contract and where to go for more help. It is available from Citizens Advice Bureau (CAB), as well as from the Ministry and on our website (www.consumeraffairs.govt.nz – Consumer Information section, Credit Issues).

Through February and March the Ministry's consumer advisors conducted 50 training sessions throughout the country on the new law for CABs and Budget Advisory Services (BAS), and the Commerce Commission and Ministry's contact centres. The Ministry's suite of five community manuals – for CAB, BAS, Māori Women's Welfare League, Pacific Communities and a generic manual for other community groups – has been updated to include a new section on the Act.

Keeping business informed

An 18-month lead-in time to the introduction of the law was allowed to give credit providers and retailers time to prepare their financial and business systems for when the law comes into force in April. An online Business Note was produced to introduce credit providers to the CCCFA and a guide for retailers - *Credit Sales for Retailers* was made available online as well as in printed format. The Commerce Commission, as part of its role in enforcing the legislation, released in March a comprehensive guide to the Act for businesses involved in offering credit. This is available on the Commission's website (www.comcom.govt.nz) or by calling its Contact Centre on 0800 94 3600.

New manager onboard

New Manager, Measurement and Product Safety Service (MAPSS), Tony Lee brings to the role considerable operational and people leadership experience.

With an engineering and operations background, Tony joins the Ministry of Consumer Affairs from New Zealand Oil Services Ltd (NZOSL), a joint venture company that manages and operates a number of oil terminals across New Zealand. Tony was Health, Safety, Security, Environment and Quality Manager at NZOSL since the company's start-up in 1999.

Before joining NZOSL, Tony had a career with Shell NZ Ltd in a variety of different roles, including engineering and operations management, project management, and business process improvement. Prior to this he was Plant Manager with Rheem New Zealand Ltd.

"I am keen to contribute to New Zealand's future," says Tony of his move to the government sector. "I was also looking for a new challenge and wish to broaden my own experience."



New MAPSS Manager Tony Lee

As part of the Ministry of Consumer Affairs, MAPSS' role is to ensure trade in goods, in and from New Zealand, is conducted on the basis of fair and accurate measure, and that products sold in New Zealand are safe for consumers.

"My role is to lead the MAPSS team in the ongoing effective and efficient achievement of MAPSS' responsibilities. It is also to assist the Ministry's General Manager to develop and shape the Ministry for 2005 and beyond," says Tony. "My vision is to involve and empower staff in the key objective of improving measurement and product safety outcomes for consumers in New Zealand."

Tony has an active life outside work, particularly in the sporting arena. He is involved in high performance sports with Badminton New Zealand as a junior selector. Previously he has also coached and managed junior and senior national sides.

Tony replaces John Barker, who retired in December last year.

Follow-up work in Cambodia

The Measurement and Product Safety Service (MAPSS) is continuing its support for South East Asian countries working to establish legal metrology infrastructure to the standard found in the more developed economies.

Last year MAPSS officers visited Cambodia, Lao, Myanmar and Vietnam to conduct a needs assessment of legal metrology systems. A report was prepared for each country including recommendations, priorities, and a timetable and budget for delivery of the improvements.

Work is continuing with Cambodia and Lao, with Measurement and Product Safety Officer Brian Waltham providing comment to the Department of Metrology of Cambodia on draft plans for building a legal metrology laboratory in Sihanoukville. Funding

for the project has come via NZAID based on the report prepared by MAPSS.

Another recommendation of the reports is also being pursued – the visit by a legal metrology technical expert to Cambodia and Lao. As requested by NZAID, MAPSS recently completed draft tender documents to find a suitable candidate for the role, which would involve help to develop and implement policy, legislative change, testing procedures and training programmes over several months.

"We remain a point of contact for the Cambodian Department of Metrology," says Brian. "We have forged excellent working relationships with the Department of Metrology both in Cambodia and Lao. Both economies tend to see our organisation as leaders in the field of legal metrology."

Product safety standards update closer

A proposal to change a number of product safety standards has been approved by the Minister of Consumer Affairs.

As reported in the November issue of *Consumer Affairs*, a discussion paper was released last September on the proposal to amend the mandatory product safety standards for cots for household use, children's nightwear, baby walkers and children's toys in line with the changes in the national standards upon which they are based. The changes largely involve clarification and some minor technical changes to the standards.

The discussion paper was sent to about 140 interested parties and made available on the Ministry's website. Comment received was generally supportive of the proposal to revise the standards. The Ministry believes the small number of respon-

dents reflects a general acceptance of the recommended changes.

The proposed changes will now be put forward to Cabinet.



Energy Safety

LPG cabinet heater safety examined

Four new projects coordinated by the Energy Safety Service (ESS), the government's energy regulatory body, are expected to result in improved safety for LPG cabinet heaters.

Involving key industry players and government departments, the projects are examining the ongoing issues relating to LPG cabinet heaters specifically, and unflued heaters generally. It will do this by investigating the problems and implementing processes that will lead to safer use of the appliances.

The projects follow the release of the *Report of the Inquiry into the use of LPG cylinders in Indoor Situations* by the Environmental Risk Management Authority (ERMA) last August.

Four specialist working committees have been set up to investigate and report on the core issues. These are:

- The cylinder and connection systems of LPG cylinders and LPG cabinet heaters, cylinder valves, connection systems that are identified as possible

causes for a number of reported accidents. Working on this with ESS are ERMA, the Occupational Safety and Health Service (OSH) and the LPG Association.

- A standard for testing and monitoring of cabinet heaters to ensure only safe cabinet heaters enter the New Zealand market. ESS and the LPG Association are investigating this issue.
- Air quality associated with unflued heaters generally, and cabinet heaters specifically. The Ministry of Health, Ministry for the Environment and LPG Association are working with ESS on this.
- The amount of LPG that can be safely stored and/or used in an indoor situation. ESS, ERMA, LPG Association and the New Zealand Fire Service are working on this issue.

These projects are expected to be completed later this year. For further details, please contact project coordinator Mehdi Yassaie on (04) 474 2851 or email mehdi.yassaie@mca.govt.nz

Expanding policy capability and understanding

The Ministry of Consumer Affairs is undertaking four projects to build its policy capability in order to better understand consumer and trader experiences and behaviour. These projects will ensure that the Ministry's ongoing activities continue to promote the goal of consumers transacting with confidence.

The projects stem from the Ministry's report, *Creating Confident Consumers: The Role of the Ministry of Consumer Affairs in a Dynamic Modern Economy*, released in May 2003. The report concludes that the Ministry's primary role is "to create an environment that is conducive to good and accurate information flows between suppliers and consumers so that consumers can transact with confidence". It recommended that the Ministry should understand consumer experiences, consumer behaviour, trader experiences and trader behaviour and undertake research into consumer issues so the Ministry can achieve its outcomes.

As a result the Ministry has initiated four projects:

- Behavioural economics and regulation
- Enforcement of consumer protection law
- Industry-led alternatives and complements to regulation
- Information disclosure.

Behavioural economics and regulation

With the Ministry of Economic Development, the Ministry has begun a project seeking to understand actual patterns and processes of consumer behaviour.

Recent work in the field of behavioural economics is beginning to question whether consumers do, in fact, follow the traditional economic assumption of acting so as to rationally maximise their own welfare. Behavioural economics theories suggest that consumers may not act rationally because of limited knowledge or ability, or that consumers consider wider social effects as well as the individual effect of their action.

Much of the Ministry's regulation is based on the traditional assumption that consumers act rationally. The actual processes of consumer behaviour will have implications for understanding how consumers respond to regulation, and whether this has implications for the ability of particular regulation to achieve its objectives.

Enforcement of protection law

The review of the enforcement of consumer protection law will measure the effectiveness of the redress and enforcement provisions in the Fair Trading Act and the Consumer Guarantees Act.

The effectiveness of the Acts will be measured against the desired policy outcomes of the legislation: that traders comply with the legislation and consumers have effective access to, and seek redress, when a transaction is unsatisfactory. It is assumed that if these two outcomes are achieved, consumers' expectations will be met, helping them transact with confidence.

Alternatives to regulation

The Ministry is also investigating whether industry-led alternatives and complements to regulation, such as codes of practice, are effective compared with other forms of regulation, such as legislation, in promoting an environment in which consumers transact with confidence. It will clarify the circumstances in which such schemes work best.

The project will build on the Ministry's 2000 publication *Guidelines for Developing a Code of Practice* to assist industry, consumers and government in developing, operating and evaluating industry-led alternatives and complements to regulation.

Information disclosure

The project on information disclosure will help better understand the information needs of consumers. It will investigate any gaps in the provision of those needs and the best means for addressing such gaps.

The project will consider whether information disclosure is working to provide for the needs of consumers, the costs and benefits of various forms of information disclosure and their match to need, the effects of information overload and the costs to consumers and business of accessing/providing information. The project will develop a broader understanding of information disclosure that might then inform future policy initiatives.

Consultation

Discussion papers for the review of consumer protection law enforcement, and the review of alternatives and complements to regulation will be published in the first half of 2005. Further papers for these and the other projects will be released in stages over the next few years.

The Ministry will consult with consumer and industry stakeholders for consultation on these projects. A survey of consumer knowledge and attitudes towards consumer protection legislation will be carried out later this year. The Ministry will also be seeking consumer feedback for case studies of selected self-regulatory schemes and codes of practice.

New maize forage Code of Practice

A new maize forage Code of Practice will help regulate the multi-million dollar maize silage industry.

The Code, released in January in time for this season's maize harvest, outlines best practice for trading maize forage – a combination of the whole maize plant, including cob, stalk and leaf – on a dry matter basis.

The Measurement and Product Safety Service (MAPSS) worked together with farmers, agricultural contractors, industry, researchers and the Ministry of Agriculture and Forestry in the guise of the Forage Trading Development Group (FTDG) over two years to establish the Code.

FTDG member Maize Specialist Jo DeFilippi, from the Foundation for Arable Research, says the new Code provides buyer and seller “peace of mind” after years of uncertainty over the methods of estimating a maize yield.

The Code sets out the requirements for accurately sampling freshly harvested maize forage (in its ‘wet’ form) in order to determine the percentage of dry matter, that is ultimately sold to farmers.

MAPSS is responsible for the approval of the weighbridge (either fixed or portable systems) used in obtaining accurate weights of each truck load of maize forage harvested (wet weight). To estimate the true dry matter, there are three other steps involved in the process:

- taking representative samples for analysis of dry matter percentage from truck loads or stacks

- reducing the volume of the samples, where there is too much to analyse (subsampling) and
- having accurate laboratory tests to determine the dry matter percentage of those samples.



Forage Trading Development Group member Joanne DeFilippi gives a demonstration at a training workshop

Three training workshops open to agricultural contractors, forage traders, growers and end-users were conducted by the FTDG in February and March. Further refinement of the Code is expected to take place over the next 12 months, as well as continued education of farmers about the new Code.

The FTDG will be monitoring the performance of the Code and will also make changes as further research is undertaken.

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